



**Service of Process
Transmittal**

09/14/2020

CT Log Number 538237811

TO: Sharon Moore
Bob Evans Restaurants, LLC
8111 Smiths Mill Rd
New Albany, OH 43054-1183

RE: Process Served in West Virginia

FOR: Bob Evans Restaurants, LLC (Domestic State: DE)

ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

TITLE OF ACTION: Bill Baumgarder and Julie Baumgarder, Pltfs. vs. Bob Evans Restaurants, LLC., etc., Dfts.

DOCUMENT(S) SERVED: -

COURT/AGENCY: None Specified
Case # 20C280

NATURE OF ACTION: Personal Injury - Failure to Maintain Premises in a Safe Condition

ON WHOM PROCESS WAS SERVED: C T Corporation System, Charleston, WV

DATE AND HOUR OF SERVICE: By Certified Mail on 09/14/2020 postmarked on 09/09/2020

JURISDICTION SERVED : West Virginia

APPEARANCE OR ANSWER DUE: None Specified

ATTORNEY(S) / SENDER(S): None Specified

ACTION ITEMS: CT has retained the current log, Retain Date: 09/14/2020, Expected Purge Date: 09/19/2020

Image SOP

Email Notification, Sharon Moore sharon.moore@bobevas.com

Email Notification, Jim Roberts jim_roberts@bobevas.com

SIGNED: C T Corporation System
ADDRESS: 208 South LaSalle Street
Suite 814
Chicago, IL 60604

For Questions: 866-331-2303
CentralTeam1@wolterskluwer.com

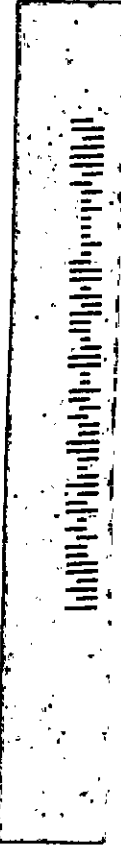
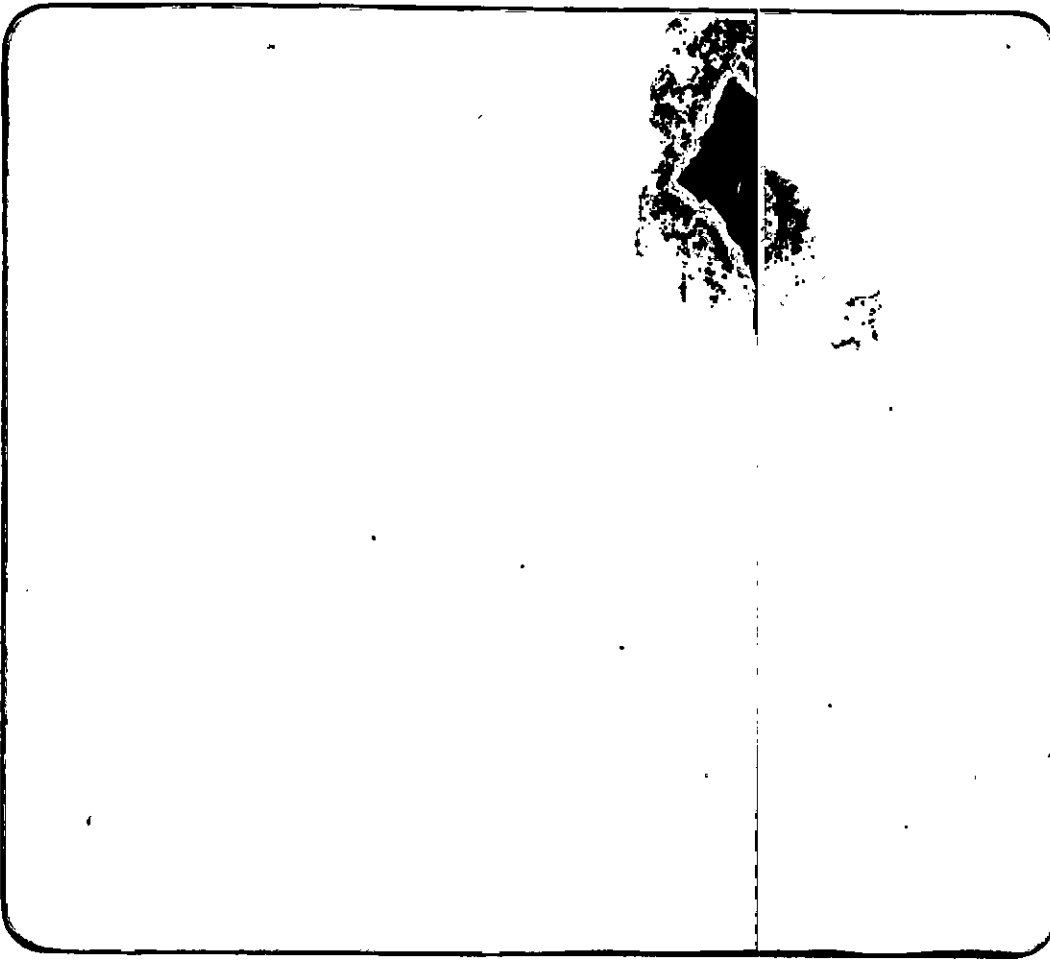
CERTIFIED MAIL



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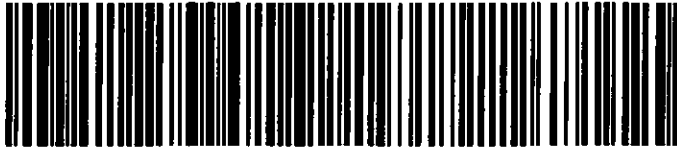


Office of the Secretary of State
Building 1 Suite 157-K
1900 Kanawha Blvd E.
Charleston, WV 25305



Mac Warner
Secretary of State
State of West Virginia
Phone: 304-558-6000
886-767-8883
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BOB EVANS RESTAURANTS, LLC
C. T. Corporation System
1627 QUARRIER ST.
CHARLESTON, WV 25311

Control Number: 262763

Defendant: BOB EVANS RESTAURANTS, LLC
1627 QUARRIER ST.
CHARLESTON, WV 25311 US

Agent: C. T. Corporation System

County: Cabell

Civil Action: 20-C-280

Certified Number: 92148901125134100002764132

Service Date: 9/8/2020

I am enclosing:

1 summons and complaint

which was served on the Secretary at the State Capitol as your statutory attorney-in-fact. According to law, I have accepted service of process in your name and on your behalf.

Please note that this office has no connection whatsoever with the enclosed documents other than to accept service of process in your name and on your behalf as your attorney-in-fact. Please address any questions about this document directly to the court or the plaintiff's attorney, shown in the enclosed paper, not to the Secretary of State's office.

Sincerely,

A handwritten signature in cursive script that reads "Mac Warner".

Mac Warner
Secretary of State

IN THE CIRCUIT COURT OF CABELL COUNTY, WEST VIRGINIA

**BILL BAUMGARDNER and
JULIE BAUMGARDNER,**

Plaintiffs,

v.

**CIVIL ACTION NO. 20-C-280
JUDGE /s/ GREGORY L. HOWARD, JR.**

**BOB EVANS RESTAURANT,
LLC, d/b/a Bob Evans Restaurant,
121 Kinetic Drive, Huntington, WV,**

Defendant.

SUMMONS

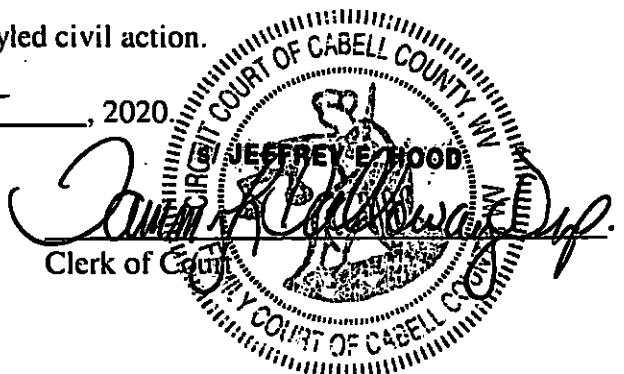
**TO: Bob Evans Restaurant, LLC
c/o CT Corporation System
1627 Quarrier Street
Charleston, WV 25311**

ACCEPTED FOR
SERVICE OF PROCESS
1920 SEP - 8 P 12:03
CLERK OF COURT
CABELL COUNTY
STATE OF WEST VIRGINIA

IN THE NAME OF THE STATE OF WEST VIRGINIA, you are hereby summoned and required to serve upon **R. Matthew Vital, Esquire, Plaintiff's Attorney**, whose address is **Vital & Vital, L.C., 536 Fifth Avenue, Huntington, WV 25701**, an Answer, including any related counter-claim you may have, to the Complaint filed against you in the above-styled action, a true copy of which is herewith delivered to you. You are required to serve your answer within thirty (30) days after service of this Summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the Complaint and you will be thereafter barred from asserting in another action any claim you may have which must be asserted by counterclaim in the above-styled civil action.

Dated this 24 day of August, 2020.

Clerk of Court



FILED

IN THE CIRCUIT COURT OF CABELL COUNTY, WEST VIRGINIA

BILL BAUMGARDNER and
JULIE BAUMGARDNER,

Plaintiffs,

v.

BOB EVANS RESTAURANT,
LLC, d/b/a Bob Evans Restaurant,
121 Kinetic Drive, Huntington, WV,

Defendant.

CIVIL ACTION NO. 20-C-280
JUDGE /s/ GREGORY L. HOWARD, JR.

COMPLAINT

Come now the Plaintiffs', Bill Baumgardner and Julie Baumgardner, by counsel, R. Matthew Vital and Vital & Vital, L.C., and bring forth this Complaint against the Defendant, Bob Evans Restaurant, LLC (herein referred to as "Bob Evans"), in the following manner:

PARTIES

1. This is an action for damages in excess of the basic jurisdictional limits of this Court.
2. At all times hereinafter mentioned and at the time of the incident complained of, the Plaintiff, Bill Baumgardner, was a resident of Carter County in the Commonwealth of Kentucky.
3. At all times hereinafter mentioned and at the time of the incident complained of, the Plaintiff, Julie Baumgardner, was a resident of Carter County in the Commonwealth of Kentucky.

4. At all times hereinafter mentioned and at the time of the incident complained of, the Defendant, Bob Evans Restaurant, LLC, was an Ohio corporation doing business as Bob Evans Restaurant, 121 Kinetic Drive, Huntington, Cabell County, in the State of West Virginia.

FACTUAL BACKGROUND

5. On or about July 12, 2019, the Plaintiffs, Bill Baumgardner and Julie Baumgardner, went onto the Defendant's premises to eat when the Plaintiff, Bill Bumgardner, was caused to slip and fall as a result of a dangerous and hazardous condition then and there present upon said premises, to-wit: slippery substance on the floor of said premises, with no measures taken by the Defendant to warn of such condition of which the Defendant had knowledge, or should had knowledge with the exercise of reasonable care.

6. As a direct and proximate result of the negligence of the Defendant, Bob Evans, the Plaintiff, Bill Baumgardner, sustained severe and permanent injuries as a result of the fall.

NEGLIGENCE CLAIM

7. Plaintiffs restate the allegations contained above as if fully restated herein.

8. The Defendant, Bob Evans, knew, or in the exercise of reasonable care should have known, of the unreasonably dangerous condition of its premises, or Defendant created the unreasonable dangerous condition either through the acts of its employees, in its negligent maintenance of equipment, or in its negligent method of operation, and Defendant should have corrected the unreasonably dangerous condition or warned Plaintiffs of its existence.

9. As a direct and proximate result of the Defendant's breach of its duties, Plaintiff Bill Baumgardner suffered permanent bodily injury, and resulting pain and suffering, disability, disfigurement, mental anguish, loss of capacity for the enjoyment of life, expense of

hospitalization, medical and nursing care, treatment, and loss of earnings and/or ability to earn money. As the injuries are permanent, Plaintiff will continue to suffer losses in the future.

10. Plaintiff suffered damages and continued to suffer damages, as a result of Defendant's negligence in an amount in excess of the minimum dollar amount necessary to establish the jurisdiction of this Court.

LOSS OF CONSORTIUM CLAIM

11. Plaintiffs restate the allegations contained above as if fully restated herein.

12. By reason of the severe and permanent injuries suffered by her spouse, Plaintiff Bill Baumgardner, as a result of the Defendant's negligence, Plaintiff Julie Baumgardner has suffered the loss of services, assistance, aid, society, companionship, and conjugal relationship which were and are of great value to Plaintiff.

13. The Plaintiff, Julie Baumgardner's damages for loss of consortium, are in an amount in excess of the minimum dollar amount necessary to establish the jurisdiction of this Court.

WHEREFORE, the Plaintiffs, Bill Baumgardner and Julie Baumgardner, demand judgment against the Defendant, Bob Evans, in an amount to be determined exceeding the jurisdictional minimum of this Court sufficient to compensate Plaintiffs for their damages herein, including, but not limited to those damages listed below:

1. As a direct and proximate result of the Defendant's negligence, the Plaintiff, Bill Baumgardner, was damages as follows: medical expenses, future medical expenses, past and future pain and suffering, both mental and physical, loss of income, impairment of his ability both temporary and permanent to earn money;

2. As a direct and proximate result of the Defendant's negligence, Plaintiff, Julie Baumgardner, was damages as follows: the loss of services, assistance, aid, society, companionship, and conjugal relationship.
3. Plaintiffs are also entitled to their costs, a reasonable attorney's fee, trial by jury, and all other relief to which the Plaintiffs may be entitled in law or in equity.

BILL BAUMGARDNER and
JULIE BAUMGARDNER,

By Counsel,



R. Matthew Vital, Esquire (WV Bar #7246)
VITAL & VITAL, L.C.
536 Fifth Avenue
Huntington, WV 25701
(304) 525-0320
Counsel for Plaintiffs